

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAUN LAWSON,

DKT#: 1-13-cv-00005(PAE)

Plaintiff,

COMPLAINT

- against -

JURY TRIAL DEMANDED

P.O. JOEL MARTINEZ (Tax Reg # 950829), and
P.O. "JOHN DOE" #1-2 individually and in their
official capacities (the name John Doe being fictitious
as the true names are presently unknown),

ECF CASE

Defendants.
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Plaintiff, SHAUN LAWSON, by his attorneys, TREYVUS & KONOSKI, P.C.,

complaining of the defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. §§ 1983, 1985, and 1988, for violations of their civil rights, as said rights are secured by said statutes and the Constitutions of the State of New York and the United States.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. §§ 1983, 1985, and 1988, and the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

3. Jurisdiction is founded upon 28 U.S.C. §§ 1331, 1343 and 1367.

VENUE

4. Venue is properly laid in the Eastern District of New York under 28 U.S.C. § 1391(b), in that this is the District in which the claim arose.

JURY DEMAND

5. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

6. Plaintiff, SHAUN LAWSON, is a citizen of the United States and at all relevant times a resident of the City and State of New York.

7. THE CITY OF NEW YORK, was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. THE CITY OF NEW YORK, maintains the New York City Police Department, a duly organized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, THE CITY OF NEW YORK.

9. That at all times hereinafter mentioned, the individually named defendants, P.O. JOEL MARTINEZ (Tax Reg # 950829), and P.O. "JOHN DOE" #1-2, were duly sworn police officers of New York City Police Department and were acting under the supervision of said department and according to their official duties.

10. That at all times hereinafter mentioned, the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York or THE CITY OF NEW YORK.

11. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment by the CITY OF NEW YORK.

12. Each and all of the acts of the defendants alleged herein were done by said defendants while acting in furtherance of their employment by the CITY OF NEW YORK.

FACTS

13. On July 4, 2012, P.O. JOEL MARTINEZ (Tax Reg # 950829), and P.O. "JOHN DOE" #1-2, approached the Plaintiff at or near 215 East 161 Street, Bronx, NY 10451.

14. Upon approaching the Plaintiff, the defendant police officers accused the Plaintiff of possessing fireworks.

15. The Plaintiff was not in possession of fireworks at any time on July 4, 2012 or July 5, 2012.

16. The Plaintiff was arrested, handcuffed, and taken into custody by P.O. JOEL MARTINEZ (Tax Reg # 950829), and P.O. "JOHN DOE" #1-2.

17. The Plaintiff was held in custody for approximately 6 hours.

18. On or about July 5, 2012, at approximately 12:45 a.m., the Plaintiff was issued a Desk Appearance ticket number 043-23821 for possession of fireworks in violation of Penal Law Sec. 270.00.

19. The charges brought against the Plaintiff were dismissed on November 1, 2012.

20. As a result of the foregoing, Plaintiff sustained, inter alia, loss of earnings, loss of enjoyment of life, loss of liberty, emotional distress, mental anguish, embarrassment and humiliation, shame, indignity, damage to reputation, and suffered a deprivation of his constitutional rights.

FIRST CLAIM FOR RELIEF **DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983**

21. Plaintiff repeats, reiterates and realleges each and every allegation contained in

paragraphs numbered “1” through “20” with the same force and effect as if fully set forth herein.

22. All of the aforementioned acts of defendants, their agents, servants and employees were carried out under the color of law.

23. All of the aforementioned acts deprived plaintiff SHAUN LAWSON of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America and in violation of 42 U.S.C. § 1983

24. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with all the actual and/or apparent authority attendant thereto.

25. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures and rules of THE CITY OF NEW YORK and the New York Police Department, all under the supervision of ranking officers of said department.

26. Defendants collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of his/her respective municipality/authority, which is forbidden by the Constitution of the United States.

SECOND CLAIM FOR RELIEF
UNLAWFUL SEIZURE (OF PERSON) UNDER 42 U.S.C § 1983

27. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered “1” through “26” with the same force and effect as if fully set forth herein.

28. As a result of defendants’ aforementioned conduct, plaintiff SHAUN LAWSON was subjected to an illegal, improper and unlawful seizure of their person without any probable cause, privilege, or consent.

29. That the seizure of the plaintiff was objectively unreasonable and in violation of the plaintiff's constitutional rights.

30. As a result of the foregoing, Plaintiff sustained, inter alia, loss of earnings, loss of enjoyment of life, loss of liberty, emotional distress, mental anguish, embarrassment and humiliation, shame, indignity, damage to reputation, and suffered a deprivation of his constitutional rights.

THIRD CLAIM FOR RELIEF
FALSE ARREST UNDER 42 U.S.C § 1983

31. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "30" with the same force and effect as if fully set forth herein.

32. As a result of defendants' aforementioned conduct, plaintiff SHAUN LAWSON and was subjected to an illegal, improper and false arrest by the defendants and taken into custody and caused to be falsely imprisoned, detained, confined, and incarcerated by the defendants without any probable cause, privilege or consent.

33. That the detention of the plaintiff by defendant was objectively unreasonable and in violation of SHAUN LAWSON's constitutional rights.

34. As a result of the foregoing, Plaintiff's liberty was restricted for an extended period of time, and plaintiff was put in fear for his safety, was humiliated and subjected to handcuffing, and other physical restraints, all without probable cause, and Plaintiff sustained, inter alia, loss of earnings, loss of enjoyment of life, loss of liberty, emotional distress, mental anguish, embarrassment and humiliation, shame, indignity, damage to reputation, and suffered a deprivation of his constitutional rights.

FOURTH CLAIM FOR RELIEF
MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983

35. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered “1” through “34” with the same force and effect as if fully set forth herein.

36. Defendants were directly and actively involved in the initiation of criminal proceedings against SHAUN LAWSON.

37. Defendants lacked probable cause to initiate criminal proceedings against SHAUN LAWSON.

38. Defendants acted with malice in initiating criminal proceedings against SHAUN LAWSON.

39. Defendants were directly and actively involved in the continuation of criminal proceedings against SHAUN LAWSON.

40. Defendants lacked probable cause to continue criminal proceedings against SHAUN LAWSON.

41. Defendants acted with malice in continuing criminal proceedings against SHAUN LAWSON.

42. Notwithstanding the conduct of the Defendants, the criminal proceedings were terminated in SHAUN LAWSON’s favor when all criminal charges against him were dismissed.

43. As a result of the foregoing, plaintiff’s liberty was restricted for an extended period of time, and Plaintiff was put in fear for his safety, was humiliated and subjected to handcuffing, and other physical restraints, all without probable cause, and Plaintiff sustained, inter alia, loss of earnings, loss of enjoyment of life, loss of liberty, emotional distress, mental anguish, embarrassment and humiliation, shame, indignity, damage to reputation, and suffered a deprivation of his constitutional rights.

DAMAGES AND RELIEF REQUESTED

44. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered “1” through “43” with the same force and effect as if fully set forth herein.

45. All of the foregoing acts by defendants deprived SHAUN LAWSON of federally protected rights, including, but not limited to, the right:

- A. Not to be deprived of liberty without due process of law;
- B. To be free from seizure and arrest not based upon probable cause;
- C. To be free from unwarranted and malicious criminal prosecution;
- D. To receive equal protection under the law.

46. By reason of the aforesaid conduct by defendants, plaintiff SHAUN LAWSON is entitled to the sum of Two Hundred Thousand Dollars (\$200,000.00) in compensatory damages, One Hundred Thousand Dollars (\$100,000.00) in punitive damages, plus attorney’s fees pursuant to 42 U.S.C. § 1988, as well as costs and disbursements of this action, and any further relief as the Court may find just and proper.

WHEREFORE, Plaintiff SHAUN LAWSON demands judgment in the sum of Two Hundred Thousand Dollars (\$200,000.00) in compensatory damages, one Hundred Thousand Dollars (\$100,000.00) in punitive damages, plus attorney’s fees, costs and disbursements of this action.

Dated: New York, NY
December 30, 2012

By: /s/ *Kira Treyvus, Esq.*
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